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REMARKS

The Examiner's action in restricting claim 48 in paragraph 1 of the Office Action has been noted.

In paragraph 3 of the Office Action, claims 25-47 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention.

Reconsideration is requested.

Claim 25 has been amended to recite "microvoided polymeric film" in place of "microvoided polypropylene". This amendment avoids the rejection for lack of a proper antecedent basis for the term --polypropylene--. Claims 29 and 35 have also been amended to provide a proper antecedent basis for the terms in each of those claims. For these reasons, it is requested that this ground of rejection be withdrawn.

The Examiner is thanked for his courtesy in indicating that the rejection for double patenting has been withdrawn.

In paragraph 6 of the Office Action, Claims 25-36 and 38-47 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dronzek (WO/1990/019412 in view of Amberberg '640).

Reconsideration is requested.

The Dronzek patent is not concerned with a microvoided polymer. The Amberg patent discloses the use of what appears to be a closed cell foamed material as a label stock, based on the use of a hot melt adhesive and heat shrinking as a labeling technique. The use of a hot melt adhesive suggests that Amberg's low density foamed materials have a closed cell structure that would not allow adhesive to migrate into the label as required by the claims of the present application. The amended claims of the present application provide that the microvoided label will allow water based adhesive to migrate into the film as disclosed in the specification at page 9, lines 4-5. This concept is not disclosed by Amberg who applies

a hot melt type of adhesive to a foamed label structure that is not disclosed as having an open celled structure.

The Declaration Under 35 U.S.C. § 1.132 which was filed in this application on April 17, 2006 provides the results of tests that have been carried out to compare the results of using water based adhesives on closed cell polymer materials with open cell polymer materials.

The test results show that there is a greater migration of adhesive into open cell polymer materials as compared to closed cell polymer materials.

These results show that when a low density, open cell polymer film is contacted with a water based adhesive, a higher weight gain is seen as compared to a washed sample of a sample of a low density, closed cell polymer film which has been treated in the same manner. In addition, the adhesion of the low density open cell polymer film to a surface is higher than the adhesion of a closed cell, low density polymer film.

The Examiner has argued that Amberg does not disclose that the foamed material has a closed cell structure. It is apparent that Amberg does not explicitly state that his foam material is a closed cell or open cell structure. However, the only adhesive or glue that Amberg describes is a spot of a "hot melt adhesive" (col. 8, line 58) which is not suggestive of an open cell foam. There is no mention of the use of any aqueous adhesive as required by claim 25. In addition the Amberg labeling system uses heat shrinkage in addition to the spot of hot melt adhesive to label a container. The use of the hot melt adhesive in combination with heat shrinkage suggests that a closed cell foam is what is being disclosed by Amberg. In any event, it cannot be argued that Amberg is suggestive of the use of an aqueous adhesive as pointed out in the claims of the present application.

The specification has been amended to claim that the benefit under 35 U.S.C. § 120 of Serial No. 09/480,300, filed January 10, 2000. Since this date is within one year of the publication date of WO/1999/019412, that publication is not

prior art to the present application. A Petition UNDER 37 CFR§1.78 is being filed with this Amendment in compliance with the rules of proactice. For these reasons, it is requested that this ground of rejection be withdrawn.

In paragraph 7 of the Office Action, claims 1 and 23 were rejected under 35 U.S.C.§103(a) as being unpatentable over Jannusch in view of Amberg.

Reconsideration is requested.

The Jannusch patent has been applied as a primary reference which infers that there is some teaching in the reference that directs the skilled artisan to combine the Jannusch teachings with the Santiago teachings. At column 8, line 38, Jannusch mentioned polystyrene as the only example of a plastic. No mention was made of the use of polypropylene which is pointed out in applicant's claims 47 and 48.

Jannusch does not mention any foamed plastic substrate and makes no reference to the use of a heat shrinking technique in connection with the use of the Jannusch water based adhesive. There is no teaching or suggestion in Amberg that would lead a skilled artisan to use a water based adhesive in place of the hot melt-heat shrinking method of applying a label. In addition, Jannusch does not mention any type of a microvoided or foam label label. Only by hindsight can Jannusch and be combined with Amberg because Amberg is only concerned with the application of a shrink wrapped sleeve with is "positioned" with a hot melt adhesive. In addition, Jannusch is silent as to the use of any label substrate which allows water to migrate into the label.

The Jannusch patent is directed to a system which must use a caustic sensitive labeling adhesive that contains an active metal such as aluminum. The metal component is added to make the adhesive debonding in the presence of a strong base. The labels that are disclosed in Example XIII, are paper and the only containers that are actually labeled are glass containers. There is no disclosure in Jannusch of any polymeric label having a density of less than 0.9. Claim 49 points out a

method of labeling a plastic which is not disclosed by Amberg or Jannusch. New claim 50 points out particular polymeric materials having a density of less than 0.55-0.85 for labeling plastic containers as disclosed at page 9, line 14 of the specification. These materials are not disclosed or contemplated by Jannusch or Amberg. Amberg only discloses glass containers (col.1, line 11). The heat shrinking step required by Amberg would exclude the use of plastic bottles as pointed out in claim 49.is

The text of the claims recites that a dried water based adhesive is within the polymer of the labels on the claimed containers

Jannusch is defective as a primary reference because it lacks a teaching of anything that would an artisan to combine the teachings of that reference with Amberg. The deficiency in the Jannusch patent is that patent is only concerned with the use of an adhesive which contains an active metal that functions to make the adhesive debonding in the presence of a strong base. The labels that are disclosed in Jannusch, in Example XIII, are paper and the plastic labels that are mentioned are not disclosed as having a low density of below 0.9.

The Amberg patent describes a labeling system which is based on the use of a foamed plastic which is shrink wrapped around a neck of a glass bottle. The foamed label may be applied with an adhesive prior to the assembly of a sleeve. The only adhesive that is disclosed in this patent is a "hot melt adhesive" (col. 8, lines 58-59). The hot melt adhesive does not result in a label which has a dried water based adhesive as pointed out in the amended claims. There is no mention as to whether or not the Amberg labels are even open celled foamed materials that could, if treated with a water based adhesive, have the adhesive taken in the open foam.

A further reason why it is not proper to combine the teachings of Jannusch and Amberg because Jannusch is that Amberg is only concerned with non-foamed materials that are

not even mentioned by Jannusch. For these reasons, it is requested that this ground of rejection be withdrawn.

In paragraph 8 of the Office Action, claims 2-12, 14 and 19-22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Jannusch in view of Amberg and in further view of Navikas. In paragraph 9 of the Office Action, claims 15-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Jannusch in view of Amberg and in further view of Navikas and further in view of Kelly.

Reconsideration is requested.

The deficiencies of Jannusch and Amberg have been pointed out above. The deficiencies of Jannusch and Amberg have been pointed out supra. Navikas is concerned with coating plastic surfaces with an organic solvent based composition to provide a place for a label with a water base adhesive to stick. There is no disclosure of the material that was used to make the labels and no disclosure of the use of a polymer label or a microvoided polymer in Navikas. The problems of "tack" and "label swimming" which are disclosed at page 6 of the present specification were not disclosed by Navikas. It is believed that polymer label stocks were not used in 1953 which is the filing date of the Navikas patent and Navikas does not disclose the use of a polymeric label. Nothing in any of the cited references provides a teaching or direction that supports the present combination of references.

The Kelly patent is directed to the use of slip aids in combination with labels that are not made of low density polymers. Nothing in Kelly teaches how to apply a microvoided polymer label to a container. For these reasons, it is requested that this ground of rejection be withdrawn.

An early and favorable action is earnestly solicited.

Respectfully submitted,



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